



STATE OF ARIZONA
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION
PHOENIX, ARIZONA 85007

ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMIT FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS

This permit provides authorization to operate under the Arizona Pollutant Discharge Elimination System program, in compliance with the provisions of the Arizona Revised Statutes, Title 49, Chapter 2, Article 3.1; the Arizona Administrative Code, Title 18, Chapter 9, Article 9; and the Clean Water Act as amended (33 U.S.C. 1251 et seq.)

This general permit specifically limits discharges from concentrated animal feeding operations (CAFOs) in Arizona by those owners or operators who submit a complete and accurate Notice of Intent (NOI) and develop and implement a nutrient management plan (NMP) that is comprehensive in accordance with Parts II and IV.A of this general permit, respectively, and who comply with the general permit requirements and conditions. All discharges authorized by this general permit shall be consistent with the terms and conditions of this general permit.

A copy of this general permit must be kept at the operation at all times.

This general permit becomes effective on 16th April, 2004.

This general permit and the authorization to discharge expire at midnight, 16th April, 2009.

Issued this 16th day of April, 2004.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

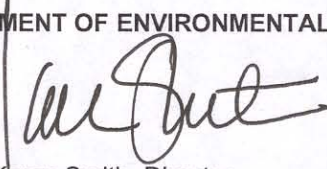

Karen Smith, Director
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PART I. COVERAGE UNDER THIS GENERAL PERMIT

A. Permit Area. This general permit covers animal feeding operations located within the state of Arizona, except for Indian Country.¹

B. Eligibility for Coverage.

Unless excluded from coverage in accordance with paragraphs D or G, below, an owner or operator of an animal feeding operation defined as a concentrated animal feeding operation (CAFO) is eligible for coverage under this permit provided the owner or operator complies with all the requirements of this general permit and submits a Notice of Intent (NOI) in accordance with Part II of this general permit. As defined in Part X of this general permit, a CAFO is any one of the following:

1. A large concentrated animal feeding operation,
2. A medium concentrated animal feeding operation, or
3. An animal feeding operation that is designated as a CAFO under A.A.C. R18-9-D901.

In addition, two or more animal feeding operations under common ownership are considered a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. Table 1, below, contains details for each category of CAFO.

Any operation that does not comply with the eligibility conditions of this permit is not authorized by the permit. For an ineligible operation, the owner or operator of the CAFO must:

- Apply for a separate AZPDES permit to cover the operation,
- Cease any discharge from the operation, or
- Modify the operation to make it eligible for coverage under this permit.

C. Authorization under this Permit.

Facilities operating under this permit shall be designed, constructed and operated to contain onsite all process wastewaters plus the direct precipitation and run-on resulting from a 25-year, 24-hour rainfall event. No discharge of manure, litter, or process wastewater pollutants is allowed under this permit except in overflow at the permitted facility resulting from a precipitation event that is greater than the 25-year, 24-hour rainfall.

For new sources under the Swine, Poultry or Veal Calves sectors, the facilities operating under this permit shall be designed, constructed and operated to contain onsite all process wastewaters plus the direct precipitation and run-on resulting from a 100-year, 24-hour rainfall event. No discharge of manure, litter, or process wastewater pollutants is allowed under this permit for new sources under the Swine, Poultry or Veal Calves sector, except in overflow at the permitted facility resulting from a precipitation event that is greater than the 100-year, 24-hour rainfall.

D. Limitations of Coverage. This permit does not authorize a discharge from an operation that will cause or contribute to non-attainment of a surface water quality standard (SWQS) or impair any

¹The state of Arizona, Department of Environmental Quality does not have permit authority for Indian Country.

designated use of a water of the U.S. (WUS) or that is not in conformance with any Total Maximum Daily Load (TMDL) that has been issued.

TABLE 1
Concentrated Animal Feeding Operation Definitions

Animal Type	Large CAFO an operation (or adjoining operations) with at least the following of any animal	Medium ² CAFO an operation (or adjoining operations) with the following number of any animal and that discharges	Designated CAFO
COWS/CATTLE			An operation that ADEQ designates as a CAFO pursuant to A.A.C. R18-9-D901 with less than the number of animals specified under Medium CAFO AND pollutants are discharged from the operation into a WUS: a. through a man-made ditch, flushing system, or other similar man-made device or b. that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.
mature dairy cows, whether milked or dry	700	200 to 699	
cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs	1000	300 to 999	
veal calves	1000	300 to 999	
DUCKS			
ducks, if the AFO uses other than a liquid manure handling system	30,000	10,000 to 29,999	
ducks, if the AFO uses a liquid manure handling system	5,000	1,500 to 4,999	
HORSES and SHEEP			
Horses	500	150 to 499	
Sheep or lambs	10,000	3,000 to 9,999	
POULTRY			
Turkeys	55,000	16,500 to 54,999	
laying hens or broilers, if the animal feeding operation uses a liquid manure handling system	30,000	9,000 to 29,999	
chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system	125,000	37,500 to 124,999	
laying hens, if the animal feeding operation uses other than a liquid manure handling system	82,000	25,000 to 81,999	
SWINE			
swine each weighing 55 pounds or more	2,500	750 to 2,499	
swine each weighing less than 55 pounds	10,000	3,000 to 9,999	

Footnote 2: An operation is a Medium CAFO if, in addition to meeting the numbers specified above, the operation also meets one of the following conditions:

- a. Pollutants are discharged into a WUS through a man-made ditch, flushing system, or other similar man-made device or
- b. Pollutants are discharged directly into a WUS that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.

E. Application for Coverage.

1. An owner or operator may operate a CAFO under this permit if:
 - a. The CAFO meets the eligibility requirements under Part I.B,
 - b. The owner or operator submits to the Department a complete and accurate NOI form as described in Part II of this permit,
 - c. The owner or operator develops and implements a NMP that meets the requirements and within the timeframes specified in Part IV.A. of this general permit, and
 - d. The owner or operator complies with all other conditions of this permit.
2. Submission of the NOI demonstrates the owner or operator's intent to be covered by this permit; it is not a determination by the Department that the owner or operator has met the eligibility requirements for the permit.

F. Effective Date of Permit Coverage. ADEQ will notify a permittee of the effective date of permit coverage in writing. The owner or operator for a new CAFO must receive the authorization notice from the Department before commencing operations.

G. Expiration, Termination or Revocation of Coverage, Application for Individual Permit.

1. Expiration and Continuance. This permit expires five years after its effective date. If this permit is not reissued before its expiration date, it will be administratively continued in accordance with A.A.C. R18-9-C903(A)(2). Any permittee who is granted permit coverage before the expiration date of this general permit will automatically remain covered by the continued permit until the earlier of:
 - a. Reissuance or replacement of the permit, at which time the permittee shall comply with the Notice of Intent conditions of the new permit to maintain authorization to discharge; or
 - b. The date the permittee has submitted a Notice of Termination; or
 - c. The date the Director has issued an individual permit for the discharge; or
 - d. The date the Director has issued a formal permit decision not to reissue the general permit, at which time the permittee shall seek coverage under an alternative general permit or an individual permit.
2. Termination or Revocation of Coverage. In accordance with Part VIII.S. of this permit, ADEQ may require any discharger authorized by the permit to apply for and obtain an individual AZPDES permit, and terminate or revoke coverage under this general permit.

3. Application for Individual Permit. In accordance with Part VIII.T. of this permit, any owner or operator of a CAFO eligible for coverage under Part I.B, above, may request to be excluded from coverage under the general permit by applying for an individual permit.

PART II. NOTICE OF INTENT REQUIREMENTS

Important: The owner or operator must read and understand all the conditions and requirements of this permit before submitting the Notice of Intent described in this Part.

- A. Notice of Intent (NOI) Requirements.** The owner or operator of a CAFO who intends to seek coverage under this general permit must submit a complete and accurate AZPDES CAFO NOI form to the Department at the address listed in Part II.D. The CAFO NOI form is provided in Appendix A. If the owner or operator desires or is required to obtain an individual AZPDES permit by the Department, the owner or operator should contact the Department for the proper application procedure.
- B. Deadlines for Submitting the NOI to the Department.**
The owner or operator shall submit a complete and accurate NOI to the Department according to the schedule provided in Table 2.

TABLE 2
Deadlines for Submission of a Complete and Accurate NOI

Operation Description	Commencement Date	Due Date
An animal feeding operation defined as a CAFO before February 2, 2004	Operation existed before April 14, 2003	Within 15 days of the effective date of this permit if the operation is not covered under AZG800000 or another AZPDES permit.
An animal feeding operation defined as a CAFO on February 2, 2004	Operation existed before April 14, 2003	By February 13, 2006.
An animal feeding operation where changes to the operation occurred after February 2, 2004 and the changed operation would have been subject to CAFO permitting requirements before February 2, 2004	Operation existed before April 14, 2003	Within 90 days after the operational change.
An animal feeding operation where changes to the operation occurred after February 2, 2004 and the changed operation would not have been subject to CAFO permitting requirements before February 2, 2004	Operation existed before April 14, 2003	By April 13, 2006 or 90 days after the operation is defined as a CAFO, whichever is later.
An animal feeding operation where the construction of additional facilities (new sources) commenced before September 30, 2004 resulting in the operation being defined as a CAFO that is a new source	Operation existed before April 14, 2003	By March 3, 2004.
An animal feeding operation where the construction of additional facilities (new sources) commenced on or after September 30, 2004 resulting in the operation being defined as a CAFO that is a new source	Operation existed before April 14, 2003	at least 180 days before the new source portion of the CAFO begins operation.
A new CAFO	Construction started after April 14, 2003	at least 180 days before the CAFO begins operation
A designated CAFO	Designated after February 2, 2004	within 90 days after receiving a designation notice.

C. Duty to Maintain Permit Coverage.

1. The permittee shall maintain permit coverage, comply with the conditions of this general permit, and reapply for permit coverage when a general permit is reissued, unless:
 - a. The facility ceases operation or is no longer a CAFO; and
 - b. The permittee demonstrates to the Director that there is no potential for a discharge of remaining manure, litter, or associated process wastewater (other than agricultural stormwater from land application areas) that was generated while the operation was a CAFO.
2. If the permittee meets the condition of Part II.C.1., the permittee shall submit a complete and accurate Notice of Termination (NOT) form and comply with the closure requirements as specified in Part VII of this permit.

D. Where to Submit. The applicant shall submit the NOI to:

Arizona Department of Environmental Quality
Water Quality Compliance Section/CAFO NOI (5415B-1)
1110 W. Washington Street
Phoenix, Arizona 85007
or fax to (602)771-4505

Part III. PERMIT REQUIREMENTS

A. Effluent Limitations – CAFO Production Area.

1. Upon permit coverage for a CAFO that is not a new source within the Swine, Poultry or Veal Calves sector, the permittee shall ensure that structures are designed, constructed, operated and maintained to contain all manure, litter, process wastewater from the production area plus the direct precipitation and run-on resulting from a 25-year, 24-hour storm event. There must be no discharge of manure, litter, or process wastewater pollutants into a WUS from the production area except in a precipitation event greater than a 25-year, 24-hour storm.
2. Upon permit coverage for a new source under the Swine, Poultry or Veal Calves sector, the permittee shall ensure that structures are designed, constructed, operated and maintained to contain all manure, litter, process wastewater from the production area plus the direct precipitation and run-on resulting from a 100-year, 24-hour rainfall event. There must be no discharge of manure, litter, or process wastewater pollutants under this permit for a new source that is a large CAFO under the Swine, Poultry or Veal Calves sector, except in overflow at the permitted facility resulting from a precipitation event that is greater than the 100-year, 24-hour rainfall.

B. Requirements for Land Application Areas.

1. The permittee shall comply with the requirements in paragraph B.2 by December 31, 2006, unless the CAFO is a new source. If the coverage is for a new source, the permittee shall comply with the requirements in paragraph B.2. upon permit coverage.
2. For land application areas under the operational control or ownership of a CAFO, the permittee shall develop and implement an NMP that incorporates the requirements of this section based on a field-specific assessment. For each field, the NMP must address the potential for nitrogen and phosphorus transport from the field and include the form, source,

amount, timing, and method of application of nutrients to achieve realistic production goals, while minimizing nitrogen and phosphorus movement to a WUS. The following land application area best management practices (BMPs) are to be addressed in the site-specific NMP:

- a. Land-application of manure, litter, and process wastewater at application rates that minimize phosphorus and nitrogen transport from the field to surface waters in compliance with the Nutrient Management Standard (Code 590) – Field Office Technical Guide (Chapter IV) by the USDA Natural Resources Conservation Service (NRCS), Conservation Practice Standard for Arizona, April 2002 (NRCS Nutrient Management Standard (Code 590));
 - b. Analyses of manure at least once annually for total nitrogen, TKN, ammonia, nitrate-nitrogen and total phosphorus and analyses of soil at least once every five years for phosphorus content. The results of these analyses are to be used in determining application rates for manure, litter, and other process wastewater;
 - c. Periodic inspection of equipment used for land application of manure, litter, or process wastewater for leaks;
 - d. No application of manure, litter, and process wastewater within 100 feet of any down-gradient WUS, open tile line intake structures, sinkholes, agricultural well heads, or other conduits to surface waters.

OR, Instead of the 100-foot setback, the permittee may use a 35-foot vegetated buffer where applications of manure, litter or process wastewater are prohibited or demonstrate implementation of alternative conservation practices or field-specific conditions that will provide pollutant reductions equivalent to or better than the reductions that would be achieved by the 100-foot setback; and
 - e. The maintenance of complete on-site records documenting implementation of all required BMPs.
3. If there is a difference between a requirement specified in NRCS Nutrient Management Standard (Code 590) and a similar condition specified in this permit, the permittee shall implement the more stringent of the two requirements.

C. Additional Measures.

The permittee shall implement the following measures upon permit coverage:

1. Install in all liquid wastewater impoundments, depth markers which indicate the maximum level of process wastewater that can be contained in the impoundment to ensure adequate capacity to contain the direct precipitation and run-on resulting from the 25-year, 24-hour rainfall event. In the case of new sources of Swine, Poultry or Veal Calves CAFOs, install depth markers to indicate the maximum level of process wastewater to be contained in the impoundment to ensure adequate capacity to contain the direct precipitation and run-on resulting from the 100-year, 24-hour rainfall event;
2. Perform weekly visual inspections of all stormwater diversion devices, run-on/runoff diversion structures, and devices channeling contaminated stormwater to the wastewater and manure storage and containment structure(s);
3. Perform daily visual inspections of all water lines, including drinking water or cooling water

lines, when present;

4. Perform weekly inspections of the manure, litter, and process wastewater impoundments and record the level by use of the installed depth marker as required in paragraph C.1., above;
5. Correct any deficiencies that are identified in daily and weekly inspections within 15 days or as soon as possible;
6. Ensure proper disposal of animal mortalities so as to prevent any discharge of pollutants to a WUS. Animal mortalities may not be disposed in any liquid manure or process wastewater systems; and
7. Maintain complete on-site records documenting implementation of all required BMPs.

Part IV. SPECIAL CONDITIONS

A. Nutrient Management Plan. The permittee must implement an NMP which has been prepared and approved by a certified nutrient management planning specialist and meets the requirements of this section.

- 1.. Deadline for developing and implementing an NMP. The permittee for a new source must develop an NMP before submitting an NOI and implement an NMP for the CAFO upon permit coverage. If the CAFO is not a new source, the permittee must develop and implement an NMP according to the following schedule:
 - a. If the NOI is submitted to the Department before December 31, 2006, by December 31, 2006, unless the operation is located within ¼ mile of an impaired or unique water.
 - b. If the NOI is submitted to the Department after December 31, 2006, at the time that a complete and accurate NOI is submitted.
 - c. If the CAFO is located within ¼ mile of an impaired water listed for total nitrogen, nitrogen species, total phosphorus, turbidity, fecal coliform or *E.Coli* or within ¼ mile of an unique water identified in A.A.C. R18-11-112, the permittee shall:
 - i. Develop an NMP for the operation within 180 days of NOI submission or December 31, 2006, whichever is earlier and
 - ii. Implement the NMP within one year of NOI submission or December 31, 2006, whichever is earlier.
2. NMP Contents. In addition to the measures specified in Part III.C., the permittee shall ensure that the NMP contains provisions that:
 - a. Ensure adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the storage facilities;
 - b. Ensure that stormwater or other water run-on is diverted from the production area;
 - c. Prevent direct contact of confined animals with a WUS;
 - d. Ensure that chemicals and other contaminants handled on-site are not disposed of in any manure, litter, process wastewater, or stormwater storage or treatment system

unless specifically designed to treat such chemicals and other contaminants;

- e. Identify appropriate site specific conservation practices to be implemented, including as appropriate buffers or equivalent practices to control runoff of pollutants to a WUS;
- f. Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;
- g. Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater; and
- h. Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs a through g of this section and Part III.C.

B. Minimum Standards for Production Area and Land Application Activities. The permittee shall ensure that each of the following minimum standards is designed and implemented to prevent discharges of pollutants to a WUS from CAFOs and land application activities under the operational control of the permittee:

- 1. Ensure effective storage measures are in place to protect water quality including:
 - a. Maintain sufficient capacity in liquid manure, wastewater, and stormwater storage structures to ensure compliance with all permitting requirements including capacity to allow the land application of manure, litter or process wastewater in accordance with NRCS Nutrient Management Standard (Code 590);
 - b. Store dry manure in such a way as to prevent polluted runoff; and
 - c. Ensure proper operation and maintenance of all manure, wastewater, and stormwater storage facilities including waste ponds and lagoons and other structures such as tanks (above and below ground) and stacking facilities (concrete pads, walls, and a roof).
- 2. Design and implement management practices to divert stormwater run-on from the production area. If stormwater run-on is not prevented from coming into contact with manure or process wastewater it must be collected and handled in accordance with the requirements in paragraph B.1.a., above.
- 3. Develop and implement appropriate controls to prevent direct access of animals to surface water in the production area.
- 4. Implement controls to prevent the inappropriate introduction of chemicals into the manure, wastewater, and stormwater storage and handling system.
- 5. For production and land application areas, develop and implement setbacks, buffer strips or other equivalent practices that are sufficient to minimize the discharge of pollutants to a WUS.
- 6. Identify and implement specific manure, wastewater and soil sample collection and analysis protocols to be utilized in developing and implementing the NMP. At a minimum the plan is to specify the collection and analysis of manure, litter, and other process wastewaters annually for nutrient content including nitrogen and phosphorus. The plan is to specify the

collection and analysis of soil samples for phosphorus content at least once every five years for all fields under the control of the permittee where manure and wastewater may be applied.

7. Ensure the establishment of protocols to apply manure and wastewater in accordance with NRCS Nutrient Management Standard (Code 590) for nutrient management.
8. Maintain all records necessary to document the development and implementation of the NMP and compliance with the minimum standards described in paragraphs 1 through 7, above. In addition, the permittee shall maintain and retain records that document compliance with the additional measures specified in the Part III.C.

- C. Permit Related Records.** The permittee must include a copy of this permit; the NOI that was submitted to the Department; a copy of the certificate received from the Department specifying the authorization number; and the NMP at the CAFO location.

*Note: The confirmation of coverage letter the permittee will receive from the Department assigning the permit authorization number is **not** the permit - it merely acknowledges that the NOI has been accepted and the permittee has been authorized to discharge subject to the terms and conditions of this general permit.*

D. Inspections.

1. Routine Inspections. The permittee shall perform the necessary inspections as noted in Part III.C, above.
2. Compliance Evaluation Report. For each inspection, the permittee shall prepare an inspection report or maintain an inspection log. At a minimum the report/log must include:
 - a. The inspection date;
 - b. Name of person(s) making the inspection;
 - c. Precipitation information for the period since the last inspection, including best estimate of the beginning of each precipitation event, duration of each event, time elapsed since last precipitation event, and approximate amount of precipitation for each event (in inches);
 - d. Location(s) of discharges of pollutants from the site;
 - e. Location(s) and identification of BMPs that need to be maintained; failed to operate as designed or prove inadequate;
 - f. Location(s) where additional BMPs are needed; and
 - g. Corrective actions required, including any changes to NMP necessary and implementation dates.
3. Maintaining Inspection Records. The permittee must ensure the inspection report and record of any follow-up actions taken is retained as part of the NMP for three years from the date this permit expires or a NOT is filed with the Department or five years from the date the record was created, whichever is later. Inspection reports must identify any non-compliance with the conditions of this permit. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the CAFO is being operated in compliance with the NMP and this permit. The report shall be signed in accordance with Part

VIII.K. of this permit.

4. Follow-Up Actions. Based on the results of the daily or weekly inspections, the permittee shall correct any problems identified by the inspections, and modify the NMP to include additional or modified BMPs designed to correct problems identified. The permittee shall complete corrections to the identified problems within seven calendar days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, the permittee shall modify the NMP and implement the new or modified BMP as soon as practicable.

E. Signature, Plan Review, and Making Plans Available.

1. The permittee must:
 - a. Sign the NMP in accordance with Part VIII.K of this permit;
 - b. Retain the NMP at the CAFO or other location easily accessible during normal business hours; and
 - c. Make the NMP available, in its entirety, to the Department, local authority, or EPA for review and copying at the time of an on-site inspection.
2. Upon request, the permittee shall provide a copy of the NMP to the Department, or to any other state, federal, local agency, or tribal authority.
3. Any other person may make a written request to the Department for access to a copy of the NMP. In this event, the Department shall request and the permittee shall provide within 14 calendar days, a copy for ADEQ to make available for public review.

- F. Deficiencies in the NMP.** The Department may notify the permittee at any time that the NMP does not meet one or more of the requirements of this permit. The notification must identify the provisions of this permit that are not being met and parts of the NMP that require modification. The Department shall specify the compliance timeframe within the notification. The permittee must make the required changes to the NMP and submit to the Department a written certification that the requested changes have been made. The Department may request submittal of the revised NMP to confirm all deficiencies have been adequately addressed. The Department may also take appropriate enforcement action for the period of time the permittee was operating under a plan that did not meet the minimum requirements of this permit.

NOTE: A certified nutrient management planning specialist must make the changes to the NMP if the deficiencies require modifying a BMP or adding additional BMPs or structural practices to accommodate BMP changes.

G. Requirements Relating to Transfer of Manure or Process Wastewater to Other Persons.

Prior to transferring manure, litter or process wastewater to other persons, the permittee shall provide the recipient of the manure, litter or process wastewater with the most current nutrient analysis. The analysis provided shall be consistent with the requirements within Parts III.B.2.b., IV.B.6 and VIII.J of this permit. The permittee shall retain records of the date, recipient name and address, and approximate amount of manure, litter or process wastewater transferred to another person for three years from the date this permit expires or a NOT is filed with the Department or five years from the date the record was created, whichever is later.

- H. Other Legal Requirements.** No condition of this permit shall release the permittee from any responsibility or requirements under other Federal, State or Local statutes or regulations.

PART V. DISCHARGE MONITORING AND NOTIFICATION REQUIREMENTS

A. Notification of Discharges from Manure and Wastewater Storage and Handling Structures.

If, for any reason, there is a discharge of a pollutant to a WUS, the permittee shall notify the Department orally within 24 hours and in writing within five (5) working days of the discharge from the CAFO as described in Part VIII.L.5. In addition, the permittee shall keep a copy of the notification submitted to the Department together with the other records required by this permit. The discharge notification shall include the following information:

1. Description of the discharge: A description of the discharge and its cause, including a description of the flow path to the WUS and an estimate of the volume discharged.
2. Time of the discharge: The period of non-compliance, including exact dates and times, the anticipate time it is expected to continue, and steps taken or planned to reduce, eliminate and prevent recurrence of the discharge.

B. Monitoring Requirements for All Discharges from Retention Structures. In the event of any overflow or other discharge of pollutants from a manure and/or wastewater storage or retention structure, the permittee shall:

1. At a minimum, analyze each sample for the following parameters: total nitrogen, phosphorus, fecal coliform five-day biochemical oxygen demand (BOD₅), and total suspended solids. The permittee shall conduct the sampling in accordance with the protocols identified in the site-specific NMP and consistent with NRCS Nutrient Management Standard (Code 590);
2. Record an estimate of the volume of the release and the date and time.
3. Collect grab samples from the overflow or discharge from the retention structure. The permittee shall collect a minimum of one sample from the initial discharge (within 30 minutes or as soon as conditions allow). The permittee shall collect and analyze the sample in accordance with a method as specified in A.A.C. R18-9-A905(B) or protocols specified in NRCS Nutrient Management Standard (Code 590). The permittee shall collect samples that are representative of the discharge. The permittee must submit monitoring results to the Department within 30 days.
4. If conditions are not safe for sampling, provide documentation of why samples could not be collected. For example, the permittee may be unable to collect samples during dangerous weather conditions. However once dangerous conditions have passed, the permittee shall collect a sample from the actual overflow or retention structure (pond or lagoon) from which the discharge occurred.

PART VI. RECORDKEEPING AND REPORTING

A. Documents. The permittee shall retain copies of the NMP (all modifications) and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit and inspections and information in Parts III and IV of this permit for three years from the date this permit expires or a NOT is filed with the Department or five years from the date the record was created, whichever is later.

1. Recordkeeping requirements for the production area. The permittee must maintain on-site for a period of five years from the date the records are created or three years from the date this permit expires or a NOT is filed with the Department, whichever is later, a complete copy of:
 - a. The information required to be submitted in the NOI;

- b. The information required to document the implementation and management of the minimum elements of the NMP;
 - c. Records documenting the inspections;
 - d. Weekly records of the depth of the manure and process wastewater in the liquid impoundment as indicated by the depth marker;
 - e. Records documenting any actions taken to correct deficiencies. Deficiencies not corrected within 30 days must be accompanied by an explanation of the factors preventing immediate correction;
 - f. Records of mortalities management and practices used by the CAFO;
 - g. Records documenting the current design of any manure, process wastewater or litter storage structures, including volume for solids accumulation, design treatment volume, total design volume, and approximate number of days of storage capacity; and
 - h. Records of the date, time, and estimated volume of any overflow.
2. Recordkeeping requirements for the land application areas. The permittee must maintain on-site a copy of its site-specific NMP. The permittee must maintain the records on-site for a period of five years from the date the records are created or three years from the date this permit expires or a NOT is filed with the Department, whichever is later. Records must include a complete copy of the information required by Parts III and IV of this permit and the following:
- a. Expected crop yields;
 - b. The date(s) manure, litter, or process waste water is applied to each field;
 - c. Weather conditions at time of application and for 24 hours prior to and following application;
 - d. Test methods used to sample and analyze manure, litter, process waste water, and soil;
 - e. Results from manure, litter, process waste water, and soil sampling;
 - f. Explanation of the basis for determining manure application rates, as provided in NRCS Nutrient Management Standard (Code 590);
 - g. Calculations showing the total nitrogen and phosphorus to be applied to each field, including sources other than manure, litter, or process wastewater;
 - h. Total amount of nitrogen and phosphorus actually applied to each field, including documentation of calculations for the total amount applied;
 - i. The method used to apply the manure, litter, or process wastewater; and
 - j. Date(s) of manure application equipment inspection.
3. Recordkeeping for transfer of manure or process wastewater to other persons under Part IV.G of this permit. The permittee must retain records of the date, recipient name and

address and approximate amount of manure, litter or process wastewater transferred to another person for three years from the date this permit expires or a NOT is filed with the Department or five years from the date the record was created, whichever is later.

- B. Accessibility.** The permittee shall retain a copy of the NMP (including a copy of the permit) at the CAFO from the date of commencement of operations or permit coverage to the date of NOT submittal.

(NOTE: This provision deals with which records need to be retained and the length of time for retention at the CAFO. Other permit conditions may require the permittee to maintain the records for a longer period of time (whether or not at the CAFO).)

- C. Addresses.** All written correspondence concerning discharges covered under this permit, must be sent to the Department at the address specified in Section II.D.

- D. Annual Reporting Requirements.** By February 19 of each year, the permittee shall submit an annual report to the Director at the address noted in Part II.D. The annual report shall include:

1. The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);
2. Estimated amount of total manure, litter and process wastewater generated by the animal feeding operation in the previous 12 months (tons or gallons);
3. Estimated amount of total manure, litter and process wastewater transferred to other person by the permittee in the previous 12 months (tons or gallons);
4. Total number of acres for land application covered by the nutrient management plan;
5. Total number of acres under control of the permittee that were used for land application of manure, litter and process wastewater in the previous 12 months;
6. Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume;
7. A statement of the current operator for the CAFO;
8. A statement indicating whether the current version of the CAFO's NMP was developed or approved by a certified nutrient management planning specialist; and
9. A certification statement as described under Part VIII.K.4 and signed under Part VIII.K.2.

PART VII. NOTICE OF TERMINATION AND CLOSURE REQUIREMENTS

- A.** If the facility ceased operation or is no longer a CAFO, the permittee shall demonstrate that there will be no potential for a discharge of remaining manure, litter or associated process wastewater generated while the operation was a CAFO, other than agricultural stormwater from land application areas. The permittee shall provide the details of the demonstration in a closure plan to the Department 90 days before the CAFO ceases.
- B.** In the closure plan, the permittee shall describe:

1. The approximate quantity of manure, process wastewater and other materials and contaminants to be removed from the facility;
 2. The destination of the materials to be removed from the facility and documentation the destination is approved to accept the materials;
 3. The method used to treat any material remaining at the facility;
 4. The method to be used to control the discharge of pollutants from the facility;
 5. Any limitations on future land or water uses created as a result of the facility's operations or closure activities;
 6. A schedule for implementation of the closure plan; and
 7. Any other relevant information the Department determines to be necessary.
- C.** Within 30 calendar days of completion of the closure plan and prior to redevelopment, the permittee shall submit an NOT to the Department on a form provided by the Department. (See Appendix B) The permittee shall indicate that the closure plan has been implemented and provide the following certification, signed by a qualified signatory as defined in Part VIII.K.2 of this permit and the name and title of the person who signs:
- "I certify under penalty of law that all CAFO discharges from the identified facility that is authorized to operate by a general permit have been eliminated or that I am no longer the owner or operator of the facility. I understand that by submitting this Notice of Termination, I am no longer authorized to operate the CAFO under this general permit, and that the discharge of CAFO pollutants from the CAFO to waters of the United States is unlawful under the Clean Water Act and Arizona Revised Statutes where the discharge is not authorized by a NPDES or AZPDES permit. I also understand that the submittal of this Notice of Termination does not release an owner or operator from liability for any violations of this permit or the Clean Water Act."*
- D.** After the Department receives a complete and accurate NOT, the Department will notify the permittee, in writing, of the effective date upon which permit coverage is terminated.

PART VIII. STANDARD PERMIT CONDITIONS

- A. Duty to Comply.** [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(a)(1) and A.R.S. §§ 49-261, 262, 263.01, and 263.02.]
1. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act; A.R.S. Title 49, Chapter 2, Article 3.1; and A.A.C. Title 18, Chapter 9, Article 9, and is grounds for enforcement action, permit termination, or denial of a permit renewal application.
 2. The issuance of this permit does not waive any federal, state, county, or local regulations or permit requirements with which a person discharging under this permit is required to comply.
 3. The permittee shall comply with the effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants of the Clean Water Act within the time provided in the regulation that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- B. Duty to Reapply.** [R18-9-A905 which incorporates 40 CFR 122.41(b)]

1. Upon reissuance of a new general permit, the permittee shall file an NOI, within the time-frame specified in the new general permit, and shall obtain new written authorization to discharge from the Director.
2. If the Director does not reissue a general permit before the expiration date, the current general permit will be administratively continued and remain in force and effect until the general permit is reissued.
3. Any permittee granted authorization to discharge under the general permit before the expiration date automatically remains covered by the continued general permit until earlier of:
 - a. Reissuance or replacement of the general permit, at which time the permittee shall comply with the NOI conditions of the new general permit to maintain authorization to discharge; or
 - b. The date the permittee has submitted a Notice of Termination; or
 - c. The date the Director has issued an individual permit for the discharge; or
 - d. The date the Director has issued a formal permit decision not to reissue the general permit, at which time the permittee shall seek coverage under an alternative general permit or an individual permit, or cease discharge.

C. Need to Halt or Reduce Activity Not a Defense. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(c)]

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(d)]

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(e)]

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

F. Permit Actions. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(f)]

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

G. Property Rights. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(g)]

This permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, nor any infringement of federal, state, Indian tribe, or local laws or regulations.

H. Duty to Provide Information. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(h)]

The permittee shall furnish to ADEQ, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to ADEQ upon request, copies of records required to be kept by this permit.

I. Inspection and Entry. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(i)]

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and such other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or activity is conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the terms of the permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring equipment or control equipment), practices or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by A.R.S. Title 49, Chapter 2, Article 3.1, and A.A.C. Title 18, Chapter 9, Article 9, any substances or parameters at any location.

J. Monitoring and Records. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(j)]

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from permit expiration or the date the NOT was filed with the Department or five years from the date of the sample, measurement, report or application, whichever is later. This period may be extended by request of the Director at any time.
3. Records of monitoring information shall include:
 - a. The date, exact place and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) the analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
4. Monitoring must be conducted according to test procedures approved under 40 CFR 136 or 9 A.A.C. Chapter 14, Article 6 as described in R18-9-A905(B) unless specific test procedures have been otherwise specified in this permit including test procedures or protocols specified in NRCS Nutrient Management Standard (Code 590).

5. Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained in this permit is subject to the enforcement actions established under A.R.S. Title 49, Chapter 2, Article 4, which includes the possibility of fines and/or imprisonment.

K. Signatory Requirements. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(k) and (l); R18-9-A905(A)(1)(c) which incorporates 40 CFR 122.22]

1. NOIs. All NOIs must be signed and certified as follows:
 - a. For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means:
 - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
 - c. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency is the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g. Regional Administrators of EPA.).
2. Reports and Other Information: All NOTs, NMPs, reports, certifications, or information required by this general permit and other information requested by the Department or authorized representative of the Department shall be signed by a person described in Part VIII.K.1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described in Part VIII.K.1;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, owner or operator, superintendent, or position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the owner or operator. (A "duly authorized representative" may be either a named individual or any individual occupying a named position.); and
 - c. The signed and dated written authorization is included in the NMP and submitted to the Department upon request.

3. Changes to Authorization. If the information on the NOI filed for general permit coverage is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new NOI must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under the terms of this permit shall make the following certification:

"I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Reporting Requirements. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(l)]

1. Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
 - a. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b) (incorporated by reference at R18-9-A905(A)(1)(e)); or
 - b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR 122.42(a)(1) (incorporated by reference at R18-9-A905(A)(3)(b)).
 - c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
2. Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
3. Transfers. The authorization to discharge under this permit is not transferable to any person. If the operation is sold, the seller shall submit an NOT to the Department within 30 days of the sale of the CAFO. The buyer shall submit an NOI for coverage per Part II of this permit within 30 days of purchase of the CAFO.
4. Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
5. Twenty-four hour reporting.
 - a. The permittee shall report to ADEQ any noncompliance which may endanger human health or the environment. The permittee shall orally notify the office listed below within 24 hours:

Arizona Department of Environmental Quality
1110 W. Washington, 5515B-1
Phoenix, AZ 85007
Office: 602-771-4469; Fax 602-771-4505

- b. A written submission shall also be provided to the office identified above within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- c. The following shall be included as information, which must be reported within 24 hours under this paragraph.
 - i. Any unanticipated bypass, which exceeds any effluent limitation in the permit. (See 40 CFR 122.41(g) which is incorporated by reference at R18-9-A905(A)(3)(a))
 - ii. Any upset which exceeds any effluent limitation in the permit.
 - iii. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in the permit to be reported within 24 hours. (See 40 CFR 122.44(g) which is incorporated by reference at R18-9-A905(A)(3)(d))
- 6. Other noncompliance. The permittee shall report all instances of noncompliance not otherwise required to be reported under this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph 5 of this section.
- 7. Other information. When the permittee becomes aware that he or she failed to submit any relevant facts in the NOI or in any other report to the Department, the permittee shall promptly submit the facts or information to the ADEQ CAFO/AFO Coordinator.

M. Bypass. [R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(m)]

- 1. Definitions.
 - a. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 3 and 4 of this section.
- 3. Notice.
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of bypass.

- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part VIII.L.5. (24-hour notice).
- 4. Prohibition of bypass. Bypass is prohibited, and the Director may take enforcement action against a permittee for bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down time. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The permittee submitted notices as required under paragraph (3) of this section.

The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above.

N. Upset. [A.R.S. §§ 49-255(8) and 255.01(E), A.A.C. R18-9-A905(A)(3)(a) which incorporates 40 CFR 122.41(n)]

- 1. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- 2. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- 3. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defenses of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required in Part VIII.L.5. (24-hour notice); and
 - d. The permittee has taken appropriate measure including all reasonable steps to minimize or prevent any discharge or sewage sludge use or disposal that is in violation of the permit and that has a reasonable likelihood of adversely affecting human health or the environment per A.R.S. § 49-255.01(E)(1)(d)
- 4. Burden of proof. In any enforcement proceeding the permittee seeking to establish the

occurrence of an upset has the burden of proof.

- O. Reopener Clause .** [R18-9-A905(A)(3)(d) which incorporates 40 CFR 122.44(c)]. The Department may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines that may be promulgated in the course of the current permit cycle.
- P. Other Environmental Laws.** No condition of this general permit releases the permittee from any responsibility or requirements under other environmental statutes or regulations. For example, this permit does not authorize the “take” of endangered or threatened species as prohibited by section 9 of the Endangered Species Act, 16 U.S.C. 1538. Information regarding the location of endangered and threatened species and guidance on what activities constitute a “take” are available from the U.S. Fish and Wildlife Service at www.fws.gov.
- Q. State or Tribal Law.** [Pursuant to R18-9-A904(C)]
Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State or Tribal law or regulation under authority preserved by Section 510 of the Clean Water Act.
- R. Severability.** The provisions of this general permit are severable, and if any provision of this general permit, or the application of any provision of this general permit to any circumstance, is held invalid, the application of the provision to other circumstances, and the remainder of this general permit shall not be affected.
- S. Requiring Coverage under an Individual Permit or an Alternative General Permit.**

 - 1. The Director may require a person authorized by this permit to apply for and/or obtain either an individual AZPDES permit or an alternative AZPDES general permit. Any interested person may petition the Department to take action under this section. The Department may require a permittee authorized to discharge under this permit to apply for an individual AZPDES permit in any of the following cases:

 - a. A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - b. Effluent limitation guidelines are promulgated for point sources covered by the general permit;
 - c. An Arizona Water Quality Management Plan containing requirements applicable to the point sources is approved;
 - d. Circumstances change after the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary;
 - e. If the Director determines that the discharge is a significant contributor of pollutants. When making this determination, the Director shall consider:

 - i. The location of the discharge with respect to waters of the United States,
 - ii. The size of the discharge,
 - iii. The quantity and nature of the pollutants discharged to a WUS, and

- iv. Any other relevant factor.
- 2. If an individual permit is required, the Director shall notify the discharger in writing of the decision. The notice shall include:
 - a. A brief statement of the reasons for the decision;
 - b. An application form;
 - c. A statement setting a deadline to file the application;
 - d. A statement that on the effective date of issuance or denial of the individual permit, coverage under the general permit will automatically terminate;
 - e. The applicant's right to appeal the individual permit requirement with the Water Quality Appeals Board under A.R.S. § 49-323, the number of days the applicant has to file a protest challenging the individual permit requirement, and the name and telephone number of the Department contact person who can answer questions regarding the appeals process; and
 - f. The applicant's right to request an informal settlement conference under A.R.S. §§ 41-1092.03(A) and 41-1092.06.
- 3. The discharger shall apply for an individual permit within 90 days of receipt of the notice, unless the Director grants a later date. In no case shall the deadline be more than 180 days after the date of the notice.
- 4. If the permittee fails to submit the individual permit application within the time period established in paragraph S.3, the applicability of the general permit to the permittee is automatically terminated at the end of the day specified by the Director for application submittal.
- 5. Coverage under the general permit shall continue until an individual permit is issued or denied or coverage under the new general permit is authorized, unless the coverage for this general permit is terminated under paragraph S.4.

T. Request for an Individual Permit.

- 1. An owner or operator of a CAFO eligible for coverage under Part I.B., above, may request an exclusion from coverage of this general permit by applying for an individual permit.
 - a. The owner or operator shall submit an individual permit application under A.A.C. R18-9-B901(B) and include the reasons supporting the request no later than 90 days after publication of the general permit.
 - b. The Director shall grant the request if the reasons cited by the owner or operator are adequate to support the request.
- 2. If an individual permit is issued for a CAFO eligible for cover under this general permit, the applicability of the general permit to the CAFO is automatically terminated on the effective date of the individual permit.

PART IX. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

Any permit noncompliance constitutes a violation and is grounds for an enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application.

- A. Civil Penalties.** A.R.S. § 49-262(C) provides that any person who violates any provision of A.R.S. Title 49, Chapter 2, Article 2, 3 or 3.1 or a rule, permit, discharge limitation or order issued or adopted under A.R.S. Title 49, Chapter 2, Article 3.1 is subject to a civil penalty not to exceed \$25,000 per day per violation.
- B. Criminal Penalties.** Any a person who violates a condition of this general permit, or violates a provision under A.R.S. Title 49, Chapter 2, Article 3.1, or A.A.C. Title 18, Chapter 2, Article 9 is subject to the enforcement actions established under A.R.S. Title 49, Chapter 2, Article 4, which may include the possibility of fines and/or imprisonment.

PART X. DEFINITIONS

“Animal confinement area” means any part of an animal feeding operation where animals are restricted or confined including open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables.

“Animal feeding operation” means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

- a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
- b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

“Best management practices” means those methods, measures or practices to prevent or reduce discharges and includes structural and nonstructural controls and operation and maintenance procedures. Best management practices may be applied before, during and after discharges to reduce or eliminate the introduction of pollutants into waters of the U.S.

“CAFO” means concentrated animal feeding operation and includes any large concentrated animal feeding operation, medium concentrated animal feeding operation, or designated concentrated animal feeding operation.

“Certified nutrient management planning specialist” means a person who has successfully completed all the Arizona Natural Resources Conservation Service (Arizona NRCS) courses and coursework of the Arizona NRCS Certified Nutrient Management Planning Specialist certification process.

“CWA” means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

“Department” means the Arizona Department of Environmental Quality.

“Designated CAFO” means an animal feeding operation that is not a Large CAFO or a Medium CAFO that the Director designated as a CAFO because the animal feeding operation significantly contributes a pollutant to a navigable water according to the process in A.A.C. R18-9-D901(B) through D901(E).

“Discharge” means any addition of any pollutant to waters of the United States from any point source. A.R.S. § 49-255(2)

“Eligible” means authorization to operate under this general permit.

“Facility” or “activity” means, for purposes of this permit, any NPDES or AZPDES “point source” or any other facility or activity (including land or appurtenances) subject to regulation under the NPDES or AZPDES program.

“Fecal coliform” means the bacterial count (Parameter 1) at 40 CFR 136.3 in Table 1.A.

“Grab sample” means a sample which is taken from a wastestream on a one-time basis without consideration of the flow rate of the wastestream and without consideration of time.

“Impaired water” means a waters of the U.S. which does not meet one or more of the designated uses due to the exceedance of one or more applicable water quality standard. A list of impaired waters is published annually in ADEQ’s 303(d) list.

“Individual permit” means an AZPDES permit for a single point source, a single facility, or a municipal separate storm sewer system. Land application area,” for purposes of Article 9, Part D, means land under the control of an animal feeding operation owner or operator, whether it is owned, rented, or leased, to which manure, litter, or process wastewater from the production area is or may be applied.

“Land application” means the application of manure and/or wastewater onto or incorporation into the soil.

“Land application area” means land under the control of an AFO owner or operator, whether it is owned, rented, or leased to which manure, litter, or process wastewater from the production area is or may be applied.

“Large concentrated animal feeding operation” means an animal feeding operation that stables or confines at least the number of animals specified in any of the following categories:

- a. 700 mature dairy cows, whether milked or dry;
- b. 1,000 veal calves;
- c. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
- d. 2,500 swine each weighing 55 pounds or more;
- e. 10,000 swine each weighing less than 55 pounds;
- f. 500 horses;
- g. 10,000 sheep or lambs;
- h. 55,000 turkeys;
- i. 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
- j. 125,000 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
- k. 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
- l. 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
- m. 5,000 ducks, if the animal feeding operation uses a liquid manure handling system.

“Liquid manure handling system” means a system that collects and transports or moves waste material with the use of water, such as in washing of pens and flushing of confinement facilities including the use of water impoundments for manure or wastewater treatment.

“Manure” means any waste or material mixed with waste from an animal including manure, bedding, compost and raw materials, or other materials commingled with manure or set aside for disposal.

“Manure storage area” means any part of an animal feeding operation where manure is stored or retained including lagoons, run-off ponds, storage sheds, stockpiles, under-house or pit storages, liquid impoundments, static piles, and composting piles.

“Medium concentrated animal feeding operation” means an animal feeding operation in which:

- a. The type and number of animals that it stables or confines falls within any of the following ranges:
 - i. 200 to 699 mature dairy cows, whether milked or dry;
 - ii. 300 to 999 veal calves;
 - iii. 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes heifers, steers, bulls, and cow and calf pairs;
 - iv. 750 to 2,499 swine each weighing 55 pounds or more;
 - v. 3,000 to 9,999 swine each weighing less than 55 pounds;
 - vi. 150 to 499 horses;
 - vii. 3,000 to 9,999 sheep or lambs;
 - viii. 16,500 to 54,999 turkeys;
 - ix. 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;
 - x. 37,500 to 124,999 chickens (other than laying hens), if the animal feeding operation uses other than a liquid manure handling system;
 - xi. 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;
 - xii. 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system; or
 - xiii. 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; and
- b. Either one of the following conditions are met:
 - i. Pollutants are discharged into a waters of the U.S. through a man-made ditch, flushing system, or other similar man-made device; or
 - ii. Pollutants are discharged directly into a waters of the U.S. that originates outside of and passes over, across, or through the animal feeding operation or otherwise comes into direct contact with the animals confined in the operation.

“Multi-year phosphorus application” means phosphorus applied to a field in excess of the crop needs for that year. In multi-year phosphorus applications, no additional manure, litter, or process wastewater is applied to the same land in subsequent years until the applied phosphorus has been removed from the field via harvest and crop removal.

“Navigable waters” means Waters of the United States.

“New discharger” includes an industrial user and means any building, structure, facility, or installation:

- a. From which there is or may be a discharge of pollutants;
- b. That did not commence the discharge of pollutants at a particular site before August 13, 1979;
- c. That is not a new source; and
- d. That has never received a finally effective NPDES or AZPDES permit for discharges at that site.

“New source” means any building, structure, facility, or installation subject to 40 CFR 412 from which there is or may be a discharge of pollutants, the construction of which commenced after February 12, 2003.

“NOI” means Notice of Intent.

“NOT” means Notice of Termination.

“Overflow” means the discharge of manure or process wastewater resulting from the filling of wastewater or

manure storage structures beyond the point at which no more manure, process wastewater, or Stormwater can be contained by the structure.

“Owner or operator” means a person who owns or operates any “facility or activity” subject to regulation under the AZPDES program.

“Person” means an individual, employee, officer, managing body, trust, firm, joint stock company, consortium, public or private corporation, including a government corporation, partnership, association or state, a political subdivision of this state, a commission, the United States government or any federal facility, interstate body or other entity. A.R.S. § 49-201(26)

“Point source” means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged to navigable waters. Point source does not include return flows from irrigated agriculture. A.R.S. § 49-201(27)

“Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- a. Sewage from vessels; or
- b. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of this state, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources. (40 CFR 122.2)

“Process wastewater” means any water that comes into contact with a raw material, product, or byproduct including manure, litter, feed, milk, eggs, or bedding and water directly or indirectly used in the operation of an animal feeding operation for any or all of the following:

- a. Spillage or overflow from animal or poultry watering systems;
- b. Washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities;
- c. Direct contact swimming, washing, or spray cooling of animals; or
- d. Dust control.

“Production area” means the animal confinement area, manure storage area, raw materials storage area, and waste containment areas. Production area includes any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of animal mortalities.

“Raw materials storage area” means the part of an animal feeding operation where raw materials are stored including feed silos, silage bunkers, and bedding materials.

“Received,” for the purposes of this permit, means in reference to NOIs or NOTs:

1. The day the Form was faxed to the Department
2. The date of hand-delivery of the Form to the Department, or
3. The date the Department signs for certified mail containing the Form.

“Setback” means a specified distance from surface waters or potential conduits to surface waters where manure, litter, and process wastewater may not be land applied, including open tile line intake structures, sinkholes, and agricultural well heads.

“Significant contributor of pollutants” means any discharge that causes or could cause or contribute to a

violation of surface water quality standards.

“Stormwater” means stormwater runoff, snow melt runoff, and surface runoff and drainage.

“Stormwater run-on” or “run-on” includes rain falling on the roofs of facilities, runoff from adjacent land, and other sources.

“Unique water” means a water listed in A.A.C. R18-11-112.

“Vegetated buffer” means a narrow, permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field and reaching surface waters.

“Waste containment area” means any part of an animal feeding operation where waste is stored or contained including settling basins and areas within berms and diversions that separate uncontaminated stormwater.

“Waters of the United States” means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any waters:
 - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. That are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters defined as waters of the United States under this definition;
5. Tributaries of waters identified in subsections (1) through (4);
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (1) through (6).

“Wetland” means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

PART XI. ACRONYMS

AZPDES — Arizona Pollutant Discharge Elimination System

BMP — Best Management Practice

CWA — Clean Water Act

CAFO — Concentrated Animal Feeding Operation

CFR — Code of Federal Regulations

NOI — Notice of Intent

NOT — Notice of Termination

NPDES — National Pollutant Discharge Elimination System

NMP — Nutrient Management Plan

SWQS — Surface Water Quality Standard

TMDL — Total Maximum Daily Load

WQS — Water Quality Standard

WUS — Waters of the United States